

16cv5420

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKRonald L. RobinsonRECEIVED
SONY DOCKET UNIT

2017 APR -4 AM 10:42

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Beverly Tillerson Karen J. TonelloJohn H. Cecilia Steven N. WettachOrazio A. BucoloWilliam A. Lee Jeffrey C.Elton See Attached

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)Jury Trial: Yes No
(check one)USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 4/26/17

I. Parties in this complaint:

A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name Ronald L. RobinsonID # 07A6175Current Institution Five Points Correctional FacilityAddress One Route 96 P.O. Box 119Brentwood, New York 11541

B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name Gerald Tillerson Shield #
 Where Currently Employed W6 Doc't. Green Haven Corr. Facility
 Address 594 Route 216
Bornville New York 12582

Defendant No. 2

Name Glen J. Smith Shield #
 Where Currently Employed W6 Doc't. Green Haven Corr. Facility
 Address 594 Route 216
Bornville New York 12582

Defendant No. 3

Name John H. Franklin Shield #
 Where Currently Employed W6 Doc't. Green Haven Corr. Facility
 Address 594 Route 216
Bornville New York 12582

Defendant No. 4

Name Glen M. Willard Shield #
 Where Currently Employed W6 Doc't. Green Haven Corr. Facility
 Address 594 Route 216
Bornville New York 12582

Defendant No. 5

Name Orazio A. Bucolo Shield #
 Where Currently Employed W6 Doc't. Green Haven Corr. Facility
 Address 594 Route 216
Bornville New York 12582

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? GREEN HAVEN
CORRECTIONAL FACILITY

B. Where in the institution did the events giving rise to your claim(s) occur? OFFICERS' UNIT
A63 known as Residential Care Facility, sevices (R.C.F.S.)
and the Special Housing Unit (S.H.U.)

C. What date and approximate time did the events giving rise to your claim(s) occur? JUN 3rd
2013 at approximately 10:30 A.M. and July 10 2013
throughout and for until August 23 2014

full names) of the defendants continued:

Anthony J. Anavecz, Joseph Bellnier, Alvin Beck
and Vernon N. Sandt

names in this Complaint continued:

Defendant No. 6 Name: William A. Lee

Where Currently Employed: No. 5 Jack: Green Haven Cor. Facility

Address: 394 Route 216

Bornville, New York 12582

Defendant No. 7 Name: Gerald C. Clark

Where Currently Employed: No. 5 Jack: Green Haven Cor. Facility

Address: 394 Route 216

Bornville, New York 12582

Defendant No. 8 Name: Anthony J. Daniels
Where Currently Employed: New York State Department of Corrections
Community Supervision

Address: The Harrison State Campus - Building 2
220 Washington Avenue
Albany, New York 12226-2050

Defendant No. 9 Name: Scott Bellinger
Where Currently Employed: New York State Department of Corrections
Community Supervision

Address: The Harrison State Campus - Building 2
220 Washington Avenue
Albany, New York 12226-2050

Defendant No. 10 Name: Albert Rock
Where Currently Employed: New York State Department of Corrections
Community Supervision
See Attached

Address: 10 Harrison State Office - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Document No. 11 Name: Leonard W. Frisch
Formerly Employed by: New York State Department of Corrections
Community Correction
Address: 10 Harrison State Office - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

2. Plaintiff Name(s) Continued:

3. Plaintiff(s) no previous lawsuits:

Petitioner: Brenden Robinson

Respondent: Anthony Alvarez, Acting Commissioner
of the New York State Department of Corrections
and Community Supervision

4. Court: Supreme Court of the State of New York
County of Dutchess

5. Index Number: 1044/2014

6. Name of Judge Assigned to Your Case: Hon. Denise N. Watson
Acting Supreme Court Justice

7. Accruing Date of Filing lawsuit: Feb. Mar. 2014

8. To the Last Bill Ending: On October 16, 2014

9. The petition is based on the Article 78 of the CPLR
Petition based on the issue of the term of tenure discrimination held at
West River Correctional Facility, which decision was rendered on
August 23, 2013

V. Review Summary (continued):

To appear as review handset

Plaintiff: Randolph Robinson

Defendants: James Taylor, ~~Mark O. Johnson, Jeffrey Prior~~

William Kibbey, Vickie Harrison, Freda Reid,
Doris Lewis, Craig Goodman, Kimberly Liles,
Roger North, Jason Harrington.

Verdict hearing continued
parties to receive new verdict. Defendants
Jason Cuttitt, Andrew Burn, Robert J. Tandy
Lachlan Turner, Stephen Rothsmith, David Alfred,
ABDO AB Jorgi, Paragon AB Jorgi

1. Plaintiff's Demands

Plaintiff: The City of New York, et al.

2. Court: United States District Court, Eastern District of New York

3. Case #/Index number: 10-N-7947 (ABR)

4. Name of Judge assigned to case: Honorable L. Parker

5. Approximate date of trial started: 2010

6. Is the case still pending: No

7. What was the result of the case: The case
was settled in 2012

Address: The Harriman State Camp, Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Defendant no. 11 Name:

Formerly Employed by: New York State Department of Corrections
Community Supervision

Address: The Harriman State Camp, Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Q. Previous lawsuits continued:

Have you filed other lawsuits in State or Federal Court dealing with the same facts involved in this action?

A. Parties to previous lawsuit:

Plaintiff: Deondra Robinson

Defendant:

Defendant: Anthony Barnes

Respondent: Acting Commissioner, & The New York State Department of Corrections and Community Supervision

2. Court if Federal Court, are the District, or State Court.
State the County

Supreme Court of the State of New York, County of Dutchess

3. Docket or Index Number: Index No. 1044/2014

4. Name of Judge assigned to your case: Hon. Dennis N. Watson,
Retired Supreme Court Justice

5. Approximate date of filing lawsuit: 2014

6. Is the Case still pending: On October 16, 2014 the
Case was assigned to the Supreme Court of the State of New York
Arraignment Division: Record Docketed under Docket No.

2014-02907 where the case is still pending

The case is pursuant to Article 78 of the CLR
Petition involves & is for the issuance of a writ of habeas
corpus at Green Haven Correctional Facility which decision was rendered
on August 23, 2013

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

D. Facts: I was being admitted into the facility's Office of Mental Health (O.M.H.) Psychiatry Unit Observation Suicide Watch also known as an 185 identical CRIS/5 treatment where inside of PCU TANK No. 1 Area Supervisor or Deputy Steven M. Whitham and Correction Officer Gerald T. Norton and Dennis J. Troubly were present in my cell (by G.O. T. Norton) to face the wall and to place both of my hands onto the wall, to undergo a strip search. I was then instructed to remove my clothing { shirt, Footwear pants, jacket & boxer shorts } one by one and to hand back to the G.O. Troubly, and then to place my hands back onto said wall and remain facing the wall. I complied with all said instructions and I were given to the once I became completely naked and was facing the wall with both of my hands being placed on the wall, I was searched by (see attached)

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

~~Fractured nose with lacerated nasal septum~~ Physical injuries
~~short term loss of consciousness~~
~~mouth injury(?)~~ (see attached)

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes No

2. Violation of Civil Continued:

3. 3rd, Continued:

1. C.O. Tillotson and C.O. Lankin. Where both Officers began striking Me with Closed fist punches and blow to My head and facial area.

3. The instant of said Closed fist punches and blows caused Me to fall onto the floor of said Restaurant No. 2. I began to yell out for help by saying "Attack Attack" "Help" "Help" "Help" in a really loud tone of voice. C.O. Tillotson then began Choking Me by placing his hand around My throat/neck and squeezing hard with force-pressure.

4. Next, Correction Officer John Lankin entered the tank know what Tillotson and possibly Lankin doing to Me and he too began punching Me in the head and facial area, with Closed fist striking blows!

5. I really began to fear for My life at this point "because they should not let us off of Me".

6. Correction Officer Tilloton took his hand from ground
the said throat neck, and resumed striking and punching Me
with closed fist hands. I then said to my self "Please:
"Please Don't Kill Me" "Please Don't Kill Me" I quote:
to these officers, is they were beating Me.

7. These three (3) said Correction Officers, Continued
to beat Me and physical assault Me with EXCESSIVE force
as I physically begged for my life by said saying
Please Don't Kill Me Please Don't Kill Me to these officers.
said said Supervisor - Correction Sergeant Steven M. Weiseth
remained present inside of the tank as Correction Officers
Gerald Tilloton William J. Tonklin and John H. Conklin
beat Me and physical assaulted Me and failed to
intervene to protect Me from harm and serious danger.

8. When Tilloton Tonklin and Conklin finished beating Me I was left said "I
laying on my back on the floor of the tank and
"bleeding". Initially I did not know that
I was bleeding and that My Mouth was full
of blood. I just felt something in My Mouth
as the remaining Correction Officers and Sgt. Weiseth
were exiting the tank. Where I spit what was

in My Mouth "out" into the air. Which Was
End or happened to be a glob of blood. Which
landed on a plexy glass window directly across from
the door of the tank. Said No. 2000 Staff
Exited the tank and closed & locked the door of the tank,
thus locking Me inside of the tank.

9. sometime thereafter the incident a different group
of Correction Officers and a Corrections Person
returned to the tank No. 2 and took photos of Me,
photos of the tank with the blob of blood being casted
and photos of the plexy glass window out side of the tank
where my bit of blood landed.

10. Then sometime thereafter Handshakes were taken
Lieutenant Dario A. Bucolo outside of the
tank No. 2 where he told Me that "Medical" was
on their way to come see Me and instructed Me to tell
Medical that nothing happened to Me and that I had
no injuries. I feared for My life that if I told
Medical what happened and reported injuries, that I
would be beaten again where they would kill Me.

Therefore, when Medical came I followed their Lt. Bucolo's
instructions and told them that nothing happened to Me
and that I didn't have any injuries.

11. Several Doctors Pennsylvania and Oliver, for women, Haven Correctional Facility were the Medical Staff ~~employed~~ by Mr. Doctor whom, came to the tank to get me and asked me the questions of (1) What happened? and (2) do you have any injuries? When I did told them that (1) Nothing happened to me and (2) I didn't have any injuries.

12. Both said doctors "examined me" and observed "No need for further medical attention, in which the Facility's hospital was unqualified to handle. Therefore said doctors ordered for me to be taken to an emergency room outside of Mr. Doctor, to a community hospital better suited for the treatment of my injuries needed.

13. As I was getting dressed to be taken to said outside emergency room hospital said Lieutenant Bucolo "Sam" instructed me to not tell the outside emergency room hospital staff what happened to me and to not report any injuries. He continued to sentence in fear for my life and thought that I would be killed, if I did not follow "Lieutenant Bucolo's" said instruction.

14. I was taken to Bronx Hospital Center ~ Emergency Department at 650 Concourse Avenue Bronx, New York 10522 as a NY Deco "Van" of Correctional Agent, Nurse and Correctional Officers Pittino and Cruz. Where I refused to answer the Emergency Room Medic's ~~any~~ question(s) of what happened to me. Even when one of the receiving nurses told me that my nose was broken upon my arrival of her just looking at me. She also told me that the Facility Green Haven did a PSI and told me what really happened (?)

15. Therefore further tests were ordered and conducted upon me a CT Scan. Which revealed that I sustained several injuries, diagnosed as follows:

(1) NOSE Fracture: break or crack in the bones of the nose,

(2) Head injuries, blunt: Concussion broke on the brain, inflicting memory difficulties, dizziness, headaches, double vision, loss of taste, depression, tiredness, weakness, difficulty with constipation and hearing difficulties.

(3) Wrist injury: swelling, cuts and bruises to my lower left and lower right.

16. When I visited Center Emergency Department
Additional physician directed instructions in order
was a prescription for Amoxicillin antibiotic 300 Mg.
As needed, three times a day X 3 days.
Follow-up in 3-4 days with my doctor, Rest ICE.
Motrin or Tylenol as needed for pain and to return to
ER for any concerns/fevers.

17. At approximately 5:15 p.m. I was returned to Green
Bay Correctional Facility and placed in the infirmary
down on a suicide watch. After I arose took my Vicodin
examined me. There was her examination of my infirmary admission
the injuries she ordered me to have was documented.
At approximately 6:15 a.m. Doctor Oliver called the facility
and I stated a prescription of Tylenol to be given to me
for pain.

18. On July 5 2013 I was seen by Doctor Bentivegna
where I requested to be discharged from the infirmary
because I did not want to be held in the infirmary.
I wanted to return back to my cell in general population.
Doctor Bentivegna discharged me from the facility infirmary
but I did not return to my cell in general population.
I was taken back to my tent No. 1 on the O.H.H. Battellight ~

Unit and told that I would remain there until a doctor from O.M.H. discharged me.

19. The No. Daco Security Staff Correction Officers ~~including~~ Lieutenant, Captain, Deputy Superintendents and the Superintendent himself were all aware that my ~~was~~ was taken to the outside hospital. ~~Reported that my nose was broken~~ of a result of this July 3 2013 No. Daco Staff attack and physical assault incident against me, as described.

20. When I was said returned to 966 tank No. 1 the Deputy Superintendent for Security, Mike Pounds to give the log book for the R.C.T. or O.M.H. Sattelite Unit. Where he told me that upon my discharge from the Sattelite Unit, I would not be returning to my said cell of general isolation. He told me that I was going to be placed in the G.H.U. ~~General Hospital Unit -~~ ~~Political Confinement~~. When I asked him what for? He said for assaulting 2 of my officers. I replied that I didn't assault anyone. He then told me that I spit blood into the face of his officer and that was assault on staff. I then told him that I did not spit blood & spit period into any staff's face.

21. Being that the Correction Officers, whom
assaulted Me With Excessive force broke My Nose
and inflicted Serious injuries to Me the Area Supervisor
at the time, of the incident whom who Said Present
as I was being beaten and failed to intervene and
protect Me from harm Correction Officer Steven M. Whitham
Fabricated on Trinate Misbehavior Report Against Me.

"Which Was Truly written in an attempt for these Mo Do
Employees to Cover up their Name off Misconduct Unlawful
Actions And Committed against Me as described". Where the
incident was also Fabricated and documented as a use of force
incident.

22. While I was held being held on the Cattelight ~
Unit, I Met With, O. M. H. Page Alone in private Where
I Then reported that No Does Correction Officer Shacked
and Injuriouly Assaulted Me When I was being Edgitted
into Total tank No. 1. Where I further reported that
I Suffered a Concussion and they broke My nose as a result
of the incident and where the Dept. for Security told Me
that I was going to be put in the Special housing Unit
Upon My discharge from the Cattelight Unit, taken into account
that I Spit Blood in one of the Consulting Officers Page
which was in critized Assistant on Page.

23. I did tell O.M.H. Staff that I only hit
1 time which was into the air & I layed on
the back on the floor of the tank and that I
did not hit directly into the face of anyone and that
I did not thought Staff. But I with the Victim of
Staff Escalating, in in Note. O.M.H. Staff told Me that
they did not have any control over Me, being placed in
the O.H.U and for Me to report what happened at the
termino Regarding the Inmate Misbehavior Report that was
going to be held. The O.M.H. Staff also told Me
that they were going to report My claim of being assaulted
by Staff.

24. On July 8 2013 I was seen by Medical
where it was noted and documented that I still had
Physical injuries on My Head and Social area.

25. On July 10 2013 I was discharged from the O.M.H.
Detention Unit and admitted into Green Haven Correctional
facility's Special Housing Unit.

26. On July 27 2013 after the following burning I was served
two (2) IER & Inmate Misbehavior Reports. Where both of
these inmate Misbehavior Reports were fabricated and falsely written
to inmate rule violations & charges I did not Commit.

27. The First INNATE Misbehavior Report Was Likely Written by Correction Sergeant Steven M. Wallath Charging Me With INNATE Rule Violations as follows:

Incident Date: 03 July 13

100.11 Assault on Staff Incident time: 1030 hrs
104.11 Violent Conduct
106.10 Refusing Direct Order
115.10 Refusing Search or Frisk
118.22 Unhygienic Act

The Description of incident Was Written and reads as follows:

On the above date and approximate time is Sgt. Wallath Was Supervising the admission of inmate Robinson #A6175 into the tank. During the Ons frisk inmate Robinson Came off the wall in an cooperative and hostile manner. Officer Tilton and Conklin used force with Robinson and subsequently brought Robinson to the floor in an effort to gain control of the inmate. Officer Conklin entered the cell in an attempt to help Tilton and when he began to, kneel down to assist Tilton, inmate Robinson spit blood at him. He hit Conklin with his fist on the right side of his uniform, by his socket and also on his right cheek by his eye. As soon as Robinson was under control all staff exited the cell and Robinson remained on the cell floor. Robinson was then ordered by Me to receive

an injection by BV Staff, to which he responded, "fuck You".
Cay & Lubricated. Second Inmate Misbehavior Report

28. The Second Inmate Misbehavior Report was honestly written by Correction Officer T. Smith, claiming He with Inmate
Has Violations as follows:

incident Date: 03 July 13

Job. 10 Refusing Direct Order

180. 14 Urine/610 Testing Violation

The description of the incident was that when I was in Gym tank No 1 on July 3 2013, after this EXCESSIVE FORCE incident, Officer Smith claimed that he ordered Me to Submit to an Urine/610 testing and that I refused to Submit a Urine Sample.

29. When I was denied these (2) said Inmate Misbehavior Reports I, Detected these No does Escape Nared on 10 Tier Assistance Relation Sheet where Correction Present N Yards, when was the third Relation, was the person that was assigned to be my tier A assistance

30. On July 12, 2013 Correction Sergeant N. Yando
of My Tier Assistance Met With Me at My location
of Special Housing Unit Cell No. 25 where I requested
to have two (2) Inmate Witnesses testify at My tier III
hearing for the Behavior Report of July 3, 2013.

The two said inmate witnesses I requested were as follows:

(1) T. Brown. D# 844936 whose cell location
was the Special Housing Unit at 42 Cell

(2) A. Huertas. D# 1042552 whose cell location
was General Population A block, 3 company, 336 Cell

On the day of the July 3, 2013 Executive Force Incident both
of those inmates were being held on the O.M.H. Catelight Unit
in the 80 tank #5 cell. Inmate Brown was in 80 tank No. 6
and inmate Huertas was in 80 tank No. 2 directly next to tank
No. 1 where the two days off sought on inmate incident did
occur and took place.

I also requested the video of 80 tank No. 2 and all paperwork
to & from Report. Unusual Incident Report. Use of Force Report
regarding the inmate Behavior Report.

32. On July 11, 2013, the Superintendent of Green Haven Correctional Facility William A. Lee assigned Bertrand C. Elert to conduct a tier 10 Overintendents' Hearing on him for the two Misbehavior Reports issued on July 3, 2013.

32. On July 15, 2013 inside the tier 10 Unit, the Special Housing Unit of Green Haven Correctional Facility Bertrand C. Elert commenced the Tier 10 Overintendents' Hearing, at approximately 10:30 a.m. Where the hearing record reflects that the Bertrand C. Elert stated that he was designated to conduct this hearing by Superintendent Lee pursuant to NYCCR § 253.2 - 254.2, where his docket Directive, No. 4932 Title: Chapter V Standards Behavior & Allocations References: NYCCR Chapter V, Subchapters A and B.

33. However, the hearing Officer, Bertrand Elert, did not end or failed to conduct the Tier 10 Overintendents' Hearing in compliance with and or pursuant to 7 NYCCR

34. Where or no time prior to and or during the Overintendents' Hearing was he afforded the following procedures due process rights:

- To be free from a predetermination of guilt by the hearing Officer
- To have witnesses to testify for Me
- To have documents and Evidence to be disclosed to Me
- To be free from unnecessary delay of the hearing and invalid, untrue, false ~~or~~ ^{or} ~~potent~~ ^{potent} of hearing Extension request
- To have the hearing conducted by an impartial, Unbiased, Unobjective and Ethical hearing officer
- To Cuffient and non-Conflicting Evidence or testimony

35. The hearing Officer showed a predetermination of guilt by his statements through out the Superintendent's hearing even as follows:

- A. You beat on Officer Conklin
- B. You came off the wall in an aggressive manner where use of force was necessary
- C. You assaulted Officer Conklin by hitting on him, and
- D. You refused to give Officer Smith & Urta complete